

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

CHARLES J. MAY,

Petitioner,

vs.

DON ROPER,

Respondent.

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Case No. 4:07CV1320 CAS

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This matter is before the court on the petition of Charles J. May for a writ of habeas corpus under 28 U.S.C. § 2254. On May 27, 2008, petitioner filed a Motion to Dismiss Without Prejudice. (Document Number 9). On June 12, 2008, the undersigned issued an Order noting that petitioner was bound by the limitations of 28 U.S.C. § 2244(d) and directing petitioner to inform the court and the Assistant Attorney General if he still wished to dismiss his petition for writ of habeas corpus. (Doc. No. 10). On July 9, 2008, petitioner filed a Motion to Dismiss Without Prejudice, in which he indicated that he was confirming his request to dismiss without prejudice pursuant to Federal Rule of Civil Procedure 41. (Doc. No. 11).

Accordingly,

IT IS HEREBY RECOMMENDED that the petition of Charles J. May for a writ of habeas corpus under 28 U.S.C. § 2254 be **dismissed without prejudice.**

The parties are advised that they have eleven (11) days, until July 25, 2008, to file written objections to this Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1), unless an extension of time for good cause is obtained, and that failure to file timely objections may result in a waiver of the right to appeal questions of fact. See Thompson v. Nix, 897 F.2d 356, 357 (8th Cir. 1990).

Dated this 14th day of July 2008.

A handwritten signature in cursive script, reading "Lewis M. Blanton", written in black ink on a white background. The signature is positioned above a horizontal line.

LEWIS M. BLANTON
UNITED STATES MAGISTRATE JUDGE